

REMARKS

This is in response to the Office Action dated February 16, 2010. With this response, claims 1, 9, 24, and 30 are amended and all pending claims 1-11 and 24-35 are presented for reconsideration and favorable action.

In the Office Action, a new rejection was set forth based upon Stafford US5763118 in view of Izaki US2002/0113685 and further in view of Maggert et al US6724170. However, it is believed that the amended claims are patentably distinct from these references.

Additionally, Applicant notes that the claimed limitations regarding temperature are not shown or suggested in any of the cited references. Therefore, it is believed the rejections should be withdrawn.

The amended claims have clarified that the battery pack includes electrical leads which are configured to couple to an intrinsically safe hand held portable apparatus for use in an industrial process control system or an explosive environment. This is not shown by the cited references. Further, there is no suggestion to combine all of the cited references in a manner to arrive at the claimed invention, particularly in context with the intrinsically safe hand held portable instrument used in an industrial process control system.

It is believed that all of the pending claims have been addressed. However, the absence of a reply to a specific rejection, issue, or comment, including the Office Action's characterizations of the art, does not signify agreement with or concession of that rejection, issue, or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment or cancellation of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment or cancellation. Applicant reserves the right to prosecute the rejection claims in further prosecution of this or related applications.

In view of the above amendments and remarks, it is believed that the present application is in condition for allowance. Consideration and favorable action are respectfully requested.

The Director is authorized to charge any fee deficiency required by this paper or credit any overpayment to Deposit Account No. 23-1123.

Respectfully submitted,

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